



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JUN 17 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5954 9322

George J. Doll, Mayor
Village of Northport
224 Main Street
Northport, New York 11768

Re: Administrative Order CWA-02-2013-3036
Village of Northport
SPDES Permit No. NYR20A303

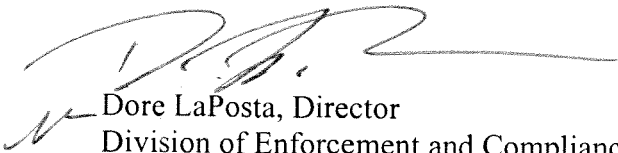
Dear Mayor Doll:

The United States Environmental Protection Agency (EPA), Region 2, has made a finding that the above-named facility, Village of Northport ("Respondent"), is in violation of the Clean Water Act (33 U.S.C. §1251 *et seq*) ("the Act") for National Pollutant Discharge Elimination System ("NPDES") violations as described in the findings to this Order. Enclosed are two (2) originals of this ORDER, issued pursuant to Sections 309 and 308 of the Act, which detail the findings.

Please acknowledge receipt of this ORDER on one of the originals and return it by mail in the enclosed envelope. Failure to comply with the enclosed ORDER may subject the facility to civil/criminal penalties pursuant to Section 309 of the Act. Failure to comply with this ORDER shall also subject the facility to ineligibility for participation in work associated with Federal contracts, grants or loans.

If you have any questions regarding this Order, please contact Mr. Jerry Ciotola of the Water Compliance Branch at (212) 637-4223.

Sincerely,



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Joe DiMura, P.E., Director, Bureau of Water Compliance Programs, NYSDEC
Eileen Keenan, NYSDEC, Region 1 HQ w/enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Village of Northport
224 Main Street
Northport, New York 11768

SPDES Permit No. NYR20A303

Respondent

Proceeding pursuant to §§ 308(a) and 309(a) of
the Clean Water Act, 33 U.S.C. §§ 1318(a) and
1319(a)

**INFORMATION REQUEST AND
ADMINISTRATIVE COMPLIANCE ORDER**

CWA-02-2013-3036

A. LEGAL AUTHORITY

The following Information Request and Administrative Compliance Order (together the "Order") are issued pursuant to Sections 308(a) and 309(a) of the Clean Water Act ("CWA"), respectively 33 U.S.C. §§ 1318(a) and 1319(a). These Authorities have been delegated by the Administrator of the United States Environmental Protection Agency, ("EPA") to the Regional Administrator, EPA Region 2 and further delegated to the Director of the Division of Enforcement and Compliance Assistance, EPA Region 2.

1. Section 301(a) of the CWA, 33 U.S.C. § 1311 (a), makes it unlawful for any person to discharge any pollutant from a point source to waters of the United States, except, among other things, with the authorization of, and in compliance with, a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
2. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes the Administrator of EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. The New York State Department of Environmental Conservation ("NYSDEC") is the agency with the authority to administer the federal NPDES program in New York pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b). Under this authority, a State Pollutant Discharge Elimination System ("SPDES") permit is required to be issued to facilities by the NYSDEC for the discharge of pollutants from a point source to a navigable water of the United States. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.
3. "Person" is defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5), to include an individual, corporation, partnership, association or municipality.
4. "Municipality" is defined by Section 502(4) of the CWA, 33 U.S.C. § 1362(4), to include among other things, a city, town borough, county, parish, district, associations, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.

5. “Discharge of a pollutant” is defined by Section 502(12) of the CWA, 33 U.S.C. § 1362(12), to include any addition of any pollutant to navigable waters from any point source.
6. “Pollutant” is defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6), to include among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged to water.
7. “Point source” is defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14), to include any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
8. “Navigable waters” is defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7), to include the waters of the United States.
9. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides, in relevant part, that the Administrator of EPA may require the owner or operator of any point source to, among other things: establish and maintain such records; make such reports; install, use and maintain such monitoring equipment; sample such effluents; and provide such other information as may reasonably be required to carry out the objective of the CWA.
10. Section 309(a) of the CWA, 33 U.S.C. § 1319(a) authorizes the Administrator to issue and order requiring compliance or commence a civil action when any person is found to be in violation of Section 301 of the CWA, 33 U.S.C. § 1311, or in violation of any permit condition or limitation in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.
11. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth requirements for the issuance of NPDES permits for the discharge of stormwater.
12. Section 402(p)(2)(E) of the CWA, 33 U.S.C. § 1342(p)(2)(E), requires a NPDES permit to be issued for discharges of stormwater from a municipal separate storm sewer (“MS4”) for which the Administrator or State determines that the stormwater discharge contributes to a violation of water quality standard or is a significant contributor of pollutants to waters of the United States.
13. Section 402(p)(3)(B), 33 U.S.C. § 1342(p)(3)(B), requires that NPDES permits for discharges from a MS4 include: a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods; and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.
14. Pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p), EPA promulgated regulations at 40 C.F.R. § 122.26 and 40 C.F.R. § 122.32 setting forth the NPDES permit requirements for stormwater discharges, including, but not limited to, the following:
 - a. 40 C.F.R. § 122.26(b)(16)(ii) defines “small municipal separate storm sewer system,” in part, as not defined as “large” or “medium” municipal separate storm sewer systems;

- b. 40 C.F.R. § 122.26(b)(3) defines "incorporated place," in part, as a city, town, township, or village that is incorporated under the laws of the State in which it is located;
 - c. 40 C.F.R. § 122.32(a)(1) establishes that small MS4s located in an urbanized area (as determined by the latest Decennial Census by the Bureau of the Census) are regulated small MS4s; and
 - d. 40 C.F.R. § 122.32(a)(2) indicates that a small MS4 is regulated under the NPDES permit program by the designated NPDES permitting authority.
- 15. 40 C.F.R. § 122.2 defines owner or operator as the owner or operator of any "facility or activity" subject to regulation under the NPDES program.
 - 16. A SPDES General Permit for Stormwater Discharges from MS4s was issued by NYSDEC on March 4, 2003 (GP-02-02), expired March 4, 2008, and was administratively extended until a new general permit (GP-0-08-002) was issued on May 1, 2008. GP-0-08-002 expired on April 30, 2010. The current permit GP-0-10-002 has an effective date of May 1, 2010 and an expiration date of April 30, 2015 (hereinafter "MS4 Permit" or "Permit").
 - 17. The MS4 Permit includes all small municipal separate storm sewer systems within the meaning of 40 C.F.R. § 122.26(b)(16).
 - 18. Under Part IV.A. through E. of the MS4 Permit, permittees must fully implement a Stormwater Management Program ("SWMP") by January 8, 2008.
 - 19. Part IV.3. of the MS4 Permit requires permittees to develop, implement and enforce a program to detect and eliminate illicit discharges under Illicit Discharge Detection and Elimination ("IDDE").
 - 20. Part VII.A.3. of the MS4 Permit, the IDDE-SWMP Development/Implementation, imposes certain Stormwater Management Program requirements, which includes: prohibition of illicit discharges into the MS4 (paragraph f) and development and implementation of a program to detect and address non-stormwater discharges (paragraph g).

B. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Director makes the following findings of fact and conclusions of law:

- 1. The Village of Northport ("Village" or "Respondent") is a municipal corporation chartered under the laws of the State of New York, and is a "person," as that term is defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2, a "municipality" as that term is defined in Section 502(4) of the CWA, 33 U.S.C. § 1362(4), and is an "incorporated place" as that term is defined in 40 C.F.R. § 122.26(b)(3).
- 2. The Village of Northport, with a population of 7,400, owns and operates the small MS4, located in the incorporated Village of Northport, Suffolk County, New York and is an owner or operator within the meaning of 40 C.F.R. § 122.2.
- 3. The MS4 in the Village of Northport is a small MS4 located in a urbanized area within the meaning of 40 C.F.R. § 122.26(b)(16)(ii) and 40 C.F.R. § 122.32(a)(1). The NYSDEC included

the Village of Northport as a regulated MS4 through designation criteria developed by the NPDES permitting authority or NYSDEC in accordance with 40 C.F.R. § 122.32(a)(2).

4. At all times relevant to this Order, the Village of Northport MS4 is a "point source" that "discharges pollutants," as defined by Section 502 of the CWA, 33 U.S.C. § 1362. The MS4 discharges stormwater to receiving waters of all areas, except agricultural lands, within the corporate boundaries of the Village of Northport. The Long Island Sound and Northport Harbor receiving waters are considered "waters of the United States" within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.
5. In March 2003, the Village of Northport applied for and received authorization under SPDES General Permit for Stormwater Discharges from MS4s (authorization number NYR20A307) for stormwater discharges from its MS4.
6. On June 3, 2003, the Village of Northport applied for and was issued SPDES General Permit NYR20A303 for the MS4 under Section 402(p) of the CWA, 33 U.S.C. § 1342(p).
7. At all times relevant to this Order, the Village of Northport was authorized to discharge from all portions of the MS4, owned or operated by the Village, to waters of the United States, only in accordance with specific terms and conditions of the MS4 permit, and associated Stormwater Discharge Regulations set forth in 40 C.F.R. § 122.26.
8. The MS4 Permit authorizes the Village of Northport to discharge stormwater (and certain limited non-stormwater discharges) from its MS4 under conditions and limitations prescribed in the Permit.
9. The Village of Northport MS4 discharges stormwater into one or more receiving waters that appear on the 303(d) list or for which a Total Maximum Daily Load ("TMDL") has been established. Northport Harbor has been designated as an impaired water body with nitrogen (Waste Load Allocation for Long Island Sound Study Management Zones) and pathogens the primary pollutants of concern. Therefore, Northport is required to meet additional improvement and minimum control measures pursuant to Part IX.C. of the MS4 Permit. Pathogen Impaired Watershed MS4 for the MS4 Permit.
10. On June 20, 28 and 29, 2011, EPA accompanied by NYSDEC, conducted MS4 compliance inspections of the Village of Northport, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318 (hereafter the "MS4 inspection"). As a result of observations during this inspection, EPA identified dry weather discharges that could contain an illicit discharge from the MS4, thus determining that a follow-up sampling inspection should be performed by the EPA Monitoring and Assessment Branch. It should be noted that three outfalls sampled by EPA were later identified to be under the jurisdiction of the State of New York, Department of Transportation ("DOT"). The Village is coordinating with the Regional DOT Region 10 representative to detect, and eliminate any potential illicit discharges to the Harbor.
11. EPA issued Administrative Order CWA-02-2011-3046 (hereafter the "AO") to the Village of Northport for its failure to provide adequate resources to fully develop and implement the SWMP no later than January 8, 2008 and to make steady progress toward full implementation, in violation of Part IV of the MS4 Permit. The AO also cited the Village of Northport for failure to provide a

detailed Illicit Discharge Detection and Elimination (IDDE) plan pursuant to Part VII.A.3. of the MS4 Permit. A formal written plan or protocol for eliminating identified illicit discharges and connections was not available at the time of the inspection. The Village of Northport failed to develop and implement a program to detect and address non-stormwater discharges that includes procedures for identifying priority areas of concern under the IDDE program; procedures for identifying and locating illicit discharges; procedures for eliminating illicit discharges; and procedures for documenting actions, in violation of Part VII.A.3.g. of the MS4 Permit.

12. The Village of Northport responded to and addressed Part D.3. of the Ordered Provisions under the AO by developing a Stormwater Management Program, an Illicit Discharge Detection and Elimination Program (IDDE), and performing a Self Assessment of Municipal Operations in accordance with the completion schedule.
13. EPA's Monitoring and Assessment Branch conducted sampling inspections on December 6 and 7, 2011 at outfalls within the Village of Northport specifically sampling for fecal coliform and total coliform. The results of that sampling were used to determine whether storm sewer discharges were contributing to water quality impairments and to determine if coliform levels in the storm sewer discharges are substantially higher than water quality standards or ambient levels. Sampling verified that outfalls at the locations identified were discharging in excess of the NY Water Quality Standard. Both Northport Bay and Northport Harbor are classified as SA waters, the MPN value for total coliform for any series of representative samples shall not exceed 70 MPN/100 ml.
14. The result of EPA's sampling are:

December 6-7, 2011 Sampling

<u>Location</u>	<u>Coliform (MPN/100ml)</u>	
	<u>Fecal</u>	<u>Total</u>
Main Street Park North-48" Pipe	22 MPN/100ml	1,700 MPN/100ml
House #99 outfall (Bayview Ave)	1,300 MPN/100ml	70,000 MPN/100ml
Stanton St. & Bayview Ave. (catch basin)	3,000 MPN/100ml	22,000 MPN/100ml
end of Main St. Park North-12"outfall	1,700 MPN/100ml	17,000 MPN/100ml

15. The samplings conducted by EPA on December 6 and 7, 2011 supported a finding that there is a potential for illicit discharges to storm sewers which discharge into Northport Harbor.
16. Based upon the field observations conducted by EPA during June 2011, and sampling inspections conducted in December 2011, EPA determined that the Village of Northport was in noncompliance with the MS4 Permit by failing to fully implement a comprehensive illicit detection and elimination program required by NYSDEC, by January 8, 2008, as part of their SWMP.
17. On July 25, 2011, EPA issued the Village of Northport Administrative Order, CWA-02-2011-3046, as well as a copy of EPA's June 20, 28, 29, 2011 MS4 inspection Report. The Village acknowledged receipt of the Order and documents on August 4, 2011. The Village representative submitted all deliverables by the completion dates under the AO. The items constituted an approved Stormwater Management Program for the Village.

18. The EPA entered into an Order on Consent, CWA-02-2012-3012, with the Village on June 28, 2012 in order for the Village of Northport to come into full compliance with its MS4 Permit.
19. The Order on Consent's "Ordered Provisions" section laid out specific deadlines for the Village to comply with, including a final Plan of Study for approval by EPA and NYSDEC by July 31, 2012.
20. The Village of Northport submitted its final Plan of Study to EPA on February 27, 2013.
21. By letter, dated March 26, 2013, EPA sent the Village tentative approval of the final Plan of Study provided the Village clarify questions from EPA.
22. The Village of Northport provided its responses to EPA's March letter by e-mail dated April 19, 2013.
23. By letter dated April 30, 2013, EPA and NYSDEC approved the Village's final Plan of Study.
24. The Village of Northport's failure to comply fully with the requirements of the MS4 Permit, are violations of Section 301 (a) of the CWA, 33 U.S.C. § 1301(a), and a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.
25. The Village of Northport has failed to implement, enforce and effectively prohibit illicit discharges into the storm sewer system and implement appropriate enforcement procedures as required under the MS4 Permit, specifically, Part VIIA.3 Illicit Discharge Detection and Elimination (IDDE)-SWMP Development/Implementation.
26. Among other requirements of Part VII.A.3. of the MS4 Permit, the Illicit Discharge Detection and Elimination (IDDE)-SWMP Development/Implementation imposes certain Stormwater Management Program requirements. The Village of Northport recently submitted an IDDE Plan on November 29, 2011, and January 30, 2012 to satisfy the requirements of CWA-02-2011-3046. Based on the above, the Village of Northport failed to implement paragraphs f. (prohibit illicit discharges into the MS4) and g. (develop and implement a program to detect and address non-stormwater discharges) of Part VII.A.3. of the Permit.
27. Based upon the above paragraphs, EPA finds that the Village of Northport is in violation of Sections 301 and 308 of the CWA, 33 U.S.C. §§ 1311 and 1318 and applicable implementing regulations.

C. REQUESTED INFORMATION

Based on the Findings above, and pursuant to the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), the Village of Northport is required to report the following to EPA in writing:

1. Beginning on May 31, 2013 and every month thereafter until compliance with the Compliance Order, the Village of Northport shall submit monthly progress reports to EPA and NYSDEC documenting all actions, sampling results and costs associated with compliance with the Compliance Order.
2. On June 30, 2014, the Village of Northport shall submit a final report to EPA and NYSDEC documenting all findings and actions taken to come into compliance with the Compliance Order.

D. ORDERED PROVISIONS

Based on the foregoing Findings of Fact and Conclusions of Law and pursuant to the authority of Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), Respondent is hereby ORDERED to do the following:

1. The Village of Northport shall fully implement Part 4 of its Stormwater Management Program dated November 2012 (revised), and Part VII.A. of the MS4 Permit.
2. In accordance with the schedule below the Village of Northport shall conduct wet weather and dry weather sampling; implement a track down program utilizing the Village of Northport's stormwater conveyance system mapping at points where major system segments converge, to identify illicit connections and other potential sources of pathogens to the MS4; and identify sub-segments determined to be contributing to the discharge of pathogens. Specifically, the Village of Northport shall:

Item

To be completed no later than

Phase II

Submit a complete Engineering Plan for approval by EPA and NYSDEC for the elimination of illicit discharges identified by the Illicit Detection and Elimination Plan, including a schedule for the completion of the corrective measures necessary to eliminate illicit discharges within the storm sewer system tributary to the "locations" identified in the Findings section of this Administrative Order.

July 31, 2013

Prepare Plans & Specifications, Bid Package, Award to Lowest Bidder

September 15, 2013

Phase III

Complete all work necessary according to the POS to eliminate illicit discharges to the Village stormwater system

March 30, 2014

Complete outfall verification sampling ensuring no illicit discharges to the Village storm sewer system

May 31, 2014

3. The Village of Northport shall continue to submit all reports required by MS4 Permit.

E. GENERAL PROVISIONS

1. Any information or documents to be submitted by Respondent as part of this Order shall, pursuant to 40 C.F.R. 122.22, be sent by certified mail or its equivalent to:

Douglas McKenna, Chief
Water Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency – Region 2
290 Broadway – 20th Floor
New York, New York 10007-1866

Joseph DiMura, P.E.
Director, Bureau of Water Compliance Programs
Division of Water
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-3506


and shall be signed by an authorized representative of Respondent, and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. Immediately upon receipt of the original copies of this Order, a responsible official of Respondent shall complete and sign the acknowledgement of receipt of one of the originals of the Order and return said original to the Agency representative named above, in paragraph E.1., in the enclosed envelope.
3. Respondent shall have the opportunity, for a period of twenty (20) days from the effective date of this Order, to confer, regarding the Ordered Provisions, with the Agency representative named above, in paragraph E.1.
4. Respondent may seek federal judicial review of the CWA Section 309(a)(3) Compliance Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
5. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, its implementing regulations, or any applicable permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.

6. Notice is hereby given that failure to comply with the terms of the CWA Section 309(a)(3) Compliance Order may result in your liability for civil penalties for each violation of up to \$37,500.00 per day under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if the Court determines that you have violated the CWA as described above and failed to comply with the terms of the Compliance Order. The District Court has the authority to impose separate civil penalties for any violations of the CWA and for any violations of the Compliance Order.
7. Notice is hereby given that failure to comply with the requirements of the CWA Section 308 Information Request may result in your liability for civil penalties for each violation of up to \$37,500 per day under Section 309(d) of the CWA, as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if the Court determines that you have failed to comply with the terms of the Information Request. You may also be subject to administrative remedies for a failure to comply with the Information Request as provided by Section 309 of the CWA.
8. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.
9. This Order shall become effective upon the date of execution by the Director, Division of Enforcement and Compliance Assistance.

Dated: 6/17/17

Signed: 
Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

Village of Northport
224 Main Street
Northport, New York 11768

SPDES Permit No. NYR20A303

Respondent

Administrative Order for Compliance
pursuant to Sections 309(a) of the Clean
Water Act, 33 U.S.C. § 1319

INFORMATION REQUEST AND

ADMINISTRATIVE COMPLIANCE ORDER

CWA-02-2013-3036

**ACKNOWLEDGMENT OF RECEIPT OF
INFORMATION REQUEST AND ADMINISTRATIVE COMPLIANCE ORDER**

I, _____, an official of Village of Northport

with the title of, _____, do hereby acknowledge the receipt of copy of the
INFORMATION REQUEST AND ADMINISTRATIVE COMPLIANCE ORDER, CWA-02-2013-3036.

DATE: _____

SIGNED: _____